

Proceedings of the Arizona Game and Fish  
Commission License Revocation & Civil  
Assessment Hearings  
Friday, June 18, 2004 – 1:30 p.m.  
Arizona State Fairgrounds-Wildlife Bldg.  
1826 W. McDowell Road  
Phoenix, AZ

PRESENT: (Commission)

(Director's Staff)

Chairman Sue Chilton  
Commissioner W. Hays Gilstrap  
Commissioner Joe Melton  
Commissioner Michael M. Golightly  
Commissioner William H. McLean

Director Duane L. Shroufe  
Deputy Director Steve K. Ferrell  
Asst. A.G. Jim Odenkirk

16. Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife

**Presenter:** Leonard Ordway, Law Enforcement Branch Chief

Roll call was taken. The following were present: James P. Howard, Jr., Randy Allen Tober, Alan E. Kowalski, and Bartlett W. Hayes. Edward M. Chapman, Jr. was at the meeting but after roll had been taken.

**Motion:** Gilstrap moved and Melton seconded THAT THE COMMISSION TAKE JURISDICTION IN THESE CASES.

**Vote:** Unanimous

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James Phillip Howard, Jr. and Randy Allen Tober

Howard was found guilty in Globe Regional Justice Court of taking big game (bear) during the closed season. He was fined \$200 plus \$20 surcharge; \$75 prosecution assessment; 25 hours of community service and six months unsupervised probation.

Tober was charged with A) taking big game (bear) during closed season and B) taking big game (bear) without a tag. He was found guilty in Gila County Superior Court (juvenile hearing) of Count A; Count B was dismissed per plea agreement.

Howard and Tober were present at today's meeting.

Howard stated Tober only hit the bear once; he did not hit the bear at all. Mr. Ordway noted the case report stated several arrows were fired at the bear, but the bear was hit once with an arrow with a field tip.

Brent Tober, Randy's father, noted several discrepancies in the report. Howard did not hit the bear - he only shot at it. Randy killed the bear. Mr. Ordway stated an individual does not have to kill to take an animal. The individuals were cited for taking wildlife during a closed season. "Take" includes pursuit for the means of intentionally killing an animal. Other discrepancies that were noted did not have any bearing on the case, but Mr. Tober could call the Department to discuss them.

**Motion:** Golightly moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF JAMES PHILLIP HOWARD, JR. TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSES TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST JAMES PHILLIP HOWARD, JR. TO COLLECT THE AMOUNT OF \$683.17 FOR HIS PART IN THE LOSS OF ONE BLACK BEAR. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Chairman Chilton asked if the mover and second would consider three years in light of these individuals being young.

**Amended Motion:** Golightly moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND DENIED FOR A PERIOD OF THREE YEARS TO ACCOMMODATE THE REQUEST OF THE CHAIR.

Jim Howard, Sr. asked the Commission to postpone taking his son's license until later. He put in for a deer tag and had three other people on the application. Mr. Ordway stated if one individual on the application gets rejected, it rejects the entire application and the other individuals on it as well. The Commission could start the revocation period any time it wanted. The notice for this case was sent prior to the application deadline. The Department was unable to determine at the meeting whether or not the notice was issued prior to the date the application was submitted. Because the individuals applied with a hard copy, there was a good chance the information had not been keyed into the system.

Commissioner Golightly suggested an amendment to the previous motion to revoke the license for five years beginning the day after the public notification of the 2004 draw. Mr. Ordway stated that, upon advice from Richard Rico (Assistant Director for Special Services), when public notification occurs, which would be before hunting season starts, it would be early August. If the applicants were drawn, it would only negate Jim Howard, Jr. from hunting.

The other three applicants would have valid applications pending and if drawn for one or more permits, a valid permit would be issued to the other three non-offending co-applicants. Jim Howard, Jr. would have to turn in any tags for which he is drawn.

**Vote on Amended Motion:** Failed 0 to 5

**Amended Motion:** Golightly moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF JAMES PHILLIP HOWARD, JR. TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSES TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST JAMES PHILLIP HOWARD, JR. TO COLLECT THE AMOUNT OF \$683.17 FOR HIS PART IN THE LOSS OF ONE BLACK BEAR. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Commissioner Golightly amended the first part of his motion.

**Amended Motion:** Golightly moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF JAMES PHILLIP HOWARD, JR. TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND THAT THEY BE REVOKED FOR A PERIOD OF FIVE YEARS BEGINNING ONE DAY AFTER PUBLIC NOTIFICATION OF THE 2004 DRAW.

**Vote on Amended Motion:** Unanimous

Mr. Ordway explained Tober was not up for license revocation because the individual was a juvenile at the time he was found guilty by the court. According to Title 17, it cannot be considered a conviction as it would be for adult. There was not a conviction on the books for Tober. Commissioner McLean expressed great concern since Tober was the one who killed the bear but he cannot have his licenses revoked. Mr. Odenkirk stated juveniles were not subject to revocation because they don't face convictions when they violate Title 17. A conviction is a prerequisite for the Commission to revoke a license.

**Motion:** Golightly moved and Melton seconded THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES OR TO BRING CIVIL ACTION TO COLLECT THE AMOUNT OF \$668.17 FROM RANDY ALLEN TOBER. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Commissioner Gilstrap suggested an amendment to add he be required to complete a hunter education course and provide proof to the Department before applying for any licenses to hunt in this state. Mr. Ordway cited that in Title 15 the requirement for a hunter education course is dependent on a revocation or suspension action. The Commission strongly suggested Tober voluntarily complete a hunter education course.

**Vote:** Unanimous

Commissioner McLean explained his vote. This wasn't right. It's true the adult should be responsible for what a juvenile does, but the juvenile has to understand he is responsible for his actions. The Commission was not sending a clear message here.

Commissioner Golightly directed the Department to pull the tag for James Howard, Jr. before it gets mailed out.

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Alan E. Kowalski and Bartlett W. Hayes

Kowalski was found guilty in Green Valley Justice Court of A) taking wildlife (deer) without a valid permit; B) taking wildlife (deer) by unlawful method and C) possessing/transporting wildlife without proof of legality (gender). He was fined \$222 for Count A; \$222 for Count B and \$222 for Count C.

Hayes was found guilty in Green Valley Justice Court of possessing/transporting unlawfully taken wildlife (deer). He was fined \$222.

Kowalski and Hayes were present at today's meeting. Kowalski stated he shot the deer with a rifle out of season. Hayes was only with him. Hayes admitted he did nothing with the deer; he was a passenger in Kowalski's vehicle.

**Motion:** Gilstrap moved and Melton seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF ALAN E. KOWALSKI TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST ALAN E. KOWALSKI TO COLLECT THE AMOUNT OF \$1366.34 FOR HIS PART IN THE LOSS OF ONE MULE DEER. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

**Motion:** Gilstrap moved and McLean seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF BARTLETT W. HAYES TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF ONE YEAR; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Commissioner Golightly noted the officer was not present and he did not have enough information. He had reservations on any license revocation on Hayes. Commissioner Gilstrap stated Hayes was found guilty in court.

**Vote:** Gilstrap and Melton – Aye  
Golightly and McLean – Nay  
Chair voted Aye  
Motion passed 3 to 2

Commissioner McLean thought it was unfair that Hayes would be denied from applying in next year's drawing. The hunt application deadline would be before one year from the day he is denied next year's hunting application. Mr. Ordway noted the assessment of the hunt deadline was correct. Hayes would not be able to put in and ask for a license to be issued upon issuance of a permit. An application cannot be made during a revocation or suspension period.

**Motion:** McLean moved and Golightly seconded THAT THE MOTION TO REVOKE FOR ONE YEAR BE RECONSIDERED AND WOULD CONSIDER A SEPARATE MOTION TO MAKE IT FOR SIX MONTHS.

**Vote:** Unanimous

**Amended Motion:** McLean moved and Melton seconded THAT THE THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF BARTLETT W. HAYES TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF SIX MONTHS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote on Amended Motion:** Unanimous

Edward Michael Chapman, Jr.

Chapman was found guilty in Santa Cruz County Justice Court of A) taking wildlife (Gila monster) during a closed season and B) possession of unlawfully taken wildlife (Gila monster). He was fined \$253, plus \$316 restitution to the Wildlife Theft Prevention Fund.

Chapman was present at today's meeting. He noted there was a problem with delivery of the notice for today's hearing. He stated it was 182 days and not 180 days. He did not request a deferral to a future meeting. Mr. Odenkirk noted the 180 day time frame in the statute is known as a directory statute; it directs an agency to provide notice within a particular period of time but it does not mandate any sanction against the agency if it does not comply with that period of time. Mr. Ordway clarified Chapman received the notice after 180 days but the notice was sent to an address on record within the 180 days.

Chapman stated he did not take a Gila monster and he was not interested in taking one. Mr. Ordway noted the conviction was on record. Chapman stated he was not a commercial collector. He was a collector and a breeder.

**Motion:** McLean moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF EDWARD MICHAEL CHAPMAN, JR. TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH BEFORE APPLYING FOR ANY OTHER LICENSES TO HUNT IN THIS STATE. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

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Rene Calderon-Alarcon

Alarcon was charged with A) taking big game (deer) without a tag; B) taking big game (2<sup>nd</sup> deer) without a tag; C) taking big game (elk) without a tag; D) possessing big game (elk) unlawfully taken; E) possessing big game (deer) unlawfully taken and F) possessing big game (2<sup>nd</sup> deer) unlawfully taken. He was found in East Phoenix Justice Court of Count A; Counts B, C, D, E and F were dismissed per plea agreement. He was fined \$400, plus a surcharge of \$300 and \$20 for a total of \$740.

Alarcon was not present at today's meeting.

**Motion:** Gilstrap moved and McLean seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF RENE CALDERON-ALARCON TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED

ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST RENE CALDERON-ALARCON TO COLLECT THE AMOUNT OF \$5,009.91 FOR THE LOSS OF TWO DEER AND ONE ELK. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

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Victor G. Pierce

Pierce was found guilty in Sierra Vista Justice Court of A) failure to tag immediately (deer); B) possession of unlawfully taken wildlife (deer); C) transport of unlawfully taken wildlife (deer) and D) exceeding bag limit (deer). He was fined \$1040.

Pierce was not present at today's meeting.

**Motion:** Gilstrap moved and Golightly seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF VICTOR G. PIERCE TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST VICTOR G. PIERCE TO COLLECT THE AMOUNT OF \$1,366.34 FOR HIS PART IN THE LOSS OF ONE WHITE-TAILED BUCK DEER. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

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Sandra F. Elmore

Elmore was charged in Washington County Justice Court, Utah, with failure to comply with terms of a citation for wildlife violation (i.e., fish without a valid license) as per the terms of the Wildlife Violator Compact.

Elmore was not present at today's meeting.

**Motion:** Gilstrap moved and Melton seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF SANDRA F. ELMORE TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE SUSPENDED AND SHE BE DENIED ANOTHER UNTIL THE LICENSING AUTHORITY FROM THE STATE OF UTAH FURNISHES THE DEPARTMENT WITH SATISFACTORY EVIDENCE OF THE SUBJECT'S COMPLIANCE WITH THE ORIGINAL CITATION; THAT THE LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

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